

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

FILED

DEC 14 2005

CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

Keith Clark)
Petitioner)
VS)
United States of America)
Respondent)
_____)

Case No. 01-1528
(Filed at CR 00-37)

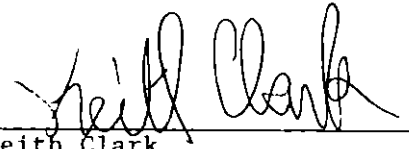
Now comes the Petitioner, Clark, by and through pro-se, in the above mentioned case, respectfully urges this Honorable Court to grant him leave to allow Petitioner to preserve his Due Process claim properly in this above mentioned case, under United States vs. Dodd, 545 U.S. ____ (2005). That way Petitioner may deal with the possible issue of retroactivity within the recent Booker vs. U.S., 543 U.S. ____ (2005) and U.S. vs. Shepard, 544 U.S. ____ (2005).

I, Petitioner would like to preserve the possible issue of retroactivity of the recent Booker/Shepard case(s).

The Dodd court held that the AEDPA's one-year limitation for filing a §2255 motion, grounded upon a claim that the Supreme Court has made a decision retroactive, is triggered on the date that such a decision is handed down; not on the date the Court declares it to be retroactive.

Wherefore, in the interest of preserving Petitioner Clarks claim, Petitioner now gives notice that he is hereby and for the record raising a challenge to his unconstitutionally imposed guideline sentence, as contemplated in U.S. vs. Booker, 125 S.Ct 738 (2005)

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Keith Clark", written over a horizontal line.

Keith Clark
F.C.I. McKean
P.O. Box 8000
Bradford, PA. 16701

Dated: December 11 of 2005